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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

UNITED STATES OF AMERICA : DOCKET NO. 2:07 CR 20013-004

VS. : JUDGE MINALDI

PRESTON JOSEPH LAUGHILIN : MAGISTRATE JUDGE WILSON

MEMORANDUM RULING

Presently before the court is the Government's objection to the Presentence Report ("PSR").¹ The Government objects to the defendant's role as a minor participant.

The Sentencing Commission has explained that section 3B1.2 "provides a range of adjustments for a defendant who plays a part in committing the offense that makes him substantially less culpable than the average participant." *Id.* § 3B1.2, cmt. (n.3(A)). The roster of available adjustments includes a modest adjustment for minor participation and a somewhat more generous adjustment for minimal participation. *Id.* § 3B1.2. A defendant who aspires to be classified as a minor participant bears the burden of proving that he is both (i) less culpable than most other participants in the offenses of conviction, and (ii) less culpable than the average miscreant involved in offenses of the same genre.²

The co-conspirator statements that the Government provided to the Probation Officer

¹ The defendant filed some factual objections which do not require a ruling by the court.

² See *U.S. v. Sanchez*, 354 F.3d 70, 74 (C.A.1 (R.I.), 2004); *United States v. Ortiz-Santiago*, 211 F.3d 146, 149 (1st Cir.2000); *United States v. Ocasio*, 914 F.2d 330, 333 (1st Cir.1990).

indicates that Laughlin was purchasing methamphetamine for personal use and for distribution to others. The amounts attributed to the defendant through these statements is substantially less than the 500 grams to which Laughlin pleaded guilty. Based upon the facts contained in the PSR, this defendant's involvement in the conspiracy is substantially less than the other participants. The reduction for a minor role is appropriate. The Government's objection is OVERRULED.

Lake Charles, Louisiana, this 6 day of December, 2007.



PATRICIA MINALDI
UNITED STATES DISTRICT JUDGE